

1
2 Filed by:
3 Merits Panel
4 Mail Stop Interference
5 P.O. Box 1450
6 Alexandria VA 22313-1450
7 Tel: 571-272-4683
8 Fax: 571-273-0042
9

Filed:
November 22, 2006

10 UNITED STATES PATENT AND TRADEMARK OFFICE
11

12
13 BEFORE THE BOARD OF PATENT APPEALS
14 AND INTERFERENCES
15

16
17 Derk J. Bergsma,
18 and
19 Masashi Yanagisawa
20 Junior Party
21 (Patent 6,001,963),
22

23 v.
24

25 J. Gregor Sutcliffe,
26 Cardiff Regor, Kaare M. Gautvik, Luis De Lecea,
27 Floyd E. Bloom, Patria E. Danielson,
28 Vigdis T. Gautvik, Thomas S. Kilduff, and
29 Pamela E. Foye
30 Senior Party
31 (Application 09/735,138).
32

33
34 Patent Interference No. 105,280
35

36
37 JUDGMENT – Bd. R. 127(b)
38

39 Before **Schafer, Medley, and Moore**, *Administrative Patent Judges*.

40 **Moore**, *Administrative Patent Judge*.

41 Bergsma has filed Paper 60, a Concession of Priority. This is construed
42 as a request for adverse judgment as to count 2, the only count of this
43 interference. See Bd. R. 127(b)(3).

1 Upon consideration of the Request for Adverse Judgment, it is hereby:
2 **ORDERED** that judgment on priority as to Count 2 (Paper 46, pages 1-2)
3 is awarded against junior party Derk J. Bergsma and Masashi Yanagisawa.
4 **FURTHER ORDERED** that junior party Derk J. Bergsma and Masashi
5 Yanagisawa is not entitled to a patent containing claims 1 and 3 (corresponding
6 to Count 2) of patent 6,001,963.
7 **FURTHER ORDERED** that a copy of this paper shall be made of record in
8 files of application 09/735,138 and patent 6,001,963.
9 **FURTHER ORDERED** that as the parties have stated that there is a
10 settlement agreement, the parties shall direct attention to 35 U.S.C. § 135(c) and
11 37 CFR § 41.205(a).

12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31
32
33
34

<u>/Richard E. Schafer/</u>)	
RICHARD E. SCHAFER)	
Administrative Patent Judge)	
)	
<u>/Sally C. Medley/</u>)	BOARD OF PATENT
SALLY C. MEDLEY)	APPEALS AND
Administrative Patent Judge)	INTERFERENCES
)	
<u>/James T. Moore/</u>)	
JAMES T. MOORE)	
Administrative Patent Judge)	

1 cc (electronic filing):
2
3 Attorney for Bergsma:
4 Paul F. Prestia, Esq.
5 RatnerPrestia, PC
6 1235 Westlakes Drive – Suite 301
7 Berwyn, PA 19312
8 pprestia@ratnerprestia.com
9
10
11 Attorney for Sutcliffe:
12 Talivaldis Cepuritis, Esq.
13 Olson & Hierl, LTD
14 20 North Wacker Drive – 36th Floor
15 Chicago, IL 60606
16 tcepuritis@olsenhierl.com